



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Judith Williams Jagdmann
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: REATHA B. KAY
Special Counsel to DMAS

DATE: July 26, 2005

SUBJECT: Proposed Fast Track Regulations concerning Exclusion of Virginia Birth-Related Neurological Injury Compensation Program (“Birth Injury Fund”) Participants from Medicaid and FAMIS Managed Care and Primary Care Case Management

I have reviewed the attached proposed regulations regarding changes that would exclude Birth Injury Fund participants from Medicaid and FAMIS managed care.

Based on that review, it is this Office’s view that the Director, (1) acting on behalf of the Board pursuant to Va. Code § 32.1-324, has the authority to promulgate these changes to the regulations with respect to carving out Birth Injury Fund enrolled children from Medicaid managed care (MEDALLION and Medallion II); and (2) pursuant to § 32.1-351, has the authority to promulgate these changes to the regulations with respect to carving out Birth Injury Fund enrolled children from the FAMIS managed care delivery systems, in each case, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority. However, if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department of Medical Assistance Services shall (i) file notice of the

Brian McCormick

July 26, 2005

Page 2

objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in this article with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you have any questions, please contact me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment